

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

TUESDAY, THE 13TH DAY OF OCTOBER 2015/21ST ASWINA, 1937

Bail Appl..No. 6259 of 2015 ()

CRIME NO. 852/2015 OF AREACODE POLICE STATION, MALAPPURAM DISTRICT

PETITIONERS/ACCUSED NOS. 2 TO 4 :

- 1. SHAMSUDHEEN, S/O.ALI
AGED 25 YEARS, PARAKKALKANDI HOUSE, MELMURI
PULIYAKKODE MALAPPURAM DISTRICT.**
- 2. MUKTHAR, S/O.MOIDEEN HAJI
AGED 30 YEARS, CHAKKITTAKANDI HOUSE, MELMURI
PULIYAKKODE, MALAPPURAM DISTRICT.**
- 3. MUHAMMED MUBASHIR, S/O.ABOOBACKER
AGED 22 YEARS, KAMUKKAPARAMBIL HOUSE, KUZHIMANNA
MALAPPURAM DISTRICT.**

BY ADV. SRI.BABU S. NAIR

RESPONDENTS/STATE & COMPLAINANT :

- 1. THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM,
KOCHI -682 031.**
- 2. THE SUB INSPECTOR OF POLICE
AREACODE POLICE STATION, MALAPPURAM DISTRICT
PIN-673 639.**

R1 & R2 BY PUBLIC PROSECUTOR SMT. LALIZA T.Y.

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13-10-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Mn

A.HARIPRASAD, J.

B.A. No.6259 of 2015

Dated this the 13th day of October, 2015

ORDER

Petition under Section 438 of the Code of Criminal Procedure.

2. Petitioners are accused Nos.2 to 4 in Crime No.852 of 2015 of Areacode Police Station registered for offences punishable under Sections 332, 353 and 380 r/w Section 34 of the Indian Penal Code and Sections 20 and 21 of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001.

3. Allegation against the petitioners is that on 18.09.2015 at about 7.00 a.m., they were found transporting river sand illegally without a valid permit. Petitioners pleaded innocence.

4. Heard the learned counsel for the petitioners and the learned Public Prosecutor.

5. Learned counsel for the petitioners contended that the

second accused, who had been arrested by the Police was subjected to extreme temporal torture by the Police Officers and he was taken to Medical College Hospital as per the direction of the learned Magistrate. It is also submitted that a case has been registered by the learned Magistrate *suo motu* against the erring officers. Enquiry is going on against the erring officers.

5. The offences alleged against the petitioners have a direct bearing on the ecological balance and economic interest of this Country. Therefore, I am of the view that the petitioners are not entitled to plead for pre-arrest bail under Section 438 of the Code of Criminal Procedure. Hence, following directions are issued :

The petitioners shall surrender before the learned Magistrate having jurisdiction in one week. Thereafter, they are free to move for regular bail before the learned Magistrate. In

that event, the learned Magistrate shall consider the application with notice to the prosecution as expeditiously as possible on merits.

**Sd/-
A.HARIPRASAD,
JUDGE.**

//True copy//

P.A to Judge

amk